IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 959 of 2005 (S/S)

Smt. Sumitra Bhatt
W/o Shri Harish Chandra Bhatt
R/o (Near S.D.M. Court) Lohaghat
District Champawat …Petitioner

Versus

1. State of Uttaranchal through
Secretary Basic Education,
Government of Uttaranchal, Dehradun
2. Deputy Secretary / Upper Sachive
Shiksha (Madhyamik/Uchch)
Uttaranchal Shasan
Dehradun
3. Director of (Basic) Education
Government of Uttaranchal
Dehradun
4. District (Basic) Education Officer/
Zila Shiksha Adhikari
District Champawat
5. Upper Zila Shiksha Adhikari /
Deputy District Education Officer,
District Champawat ….Respondents

Sri K.S. Bora, learned counsel for the petitioner
Sri H. Belwal, learned standing counsel for the State

Hon'ble B.C. Kandpal, J.

By means of this writ petition a relief has been sought in the nature of mandamus directing the respondents to decide the representation of the petitioner and issue the petitioner formal order of transfer only after amending the transfer list in relation to her.

Brief facts giving rise to this petition are that the petitioner was appointed as Assistant Teacher in Primary School on 02.11.1993 and ever since she has been serving in the schools of remote interior areas of the District Champawat. Now, the petitioner is presently serving in Primary School Patan Patni, Lohaghat *(Durgam Sthal).*

On 21.05.2005, the respondent No. 5 i.e. Upper Zila Shiksha Adhikari, District Champawat issued a list of promotional transfers and

thereby transferred the petitioner to a remotest interior area in Purva Madhyamik Vidyalaya Netrasalan, Block Barakot, District Champawat.

Feeling aggrieved by the aforesaid transfer order, the petitioner has preferred this writ petition before this Court.

Heard learned counsel for the petitioner as well as learned standing counsel for the State and perused the record.

Learned counsel for the petitioner argued that the petitioner is suffering from brain tumor and she is under treatment at Bareilly.

Learned counsel for the petitioner has invited my attention towards the Clause 15 of Government Order No. 330/XXIV-2/2004 dated 24.05.2004 which reads that in the cases where husband and wife both are teachers they would be posted at one place so far as it is possible.

Learned counsel for the petitioner has submitted that the husband of the petitioner is also a teacher in Government Inter College Karan Karait Lohaghat, District Champawat and as per the above mentioned G.O. reveals that where the husband and wife both are working as teachers then as far as possible both the spouses should be posted in one area.

Learned counsel for the petitioner has further submitted that the transfer order of the petitioner is against the transfer policy.

Government Order dated 24.05.2004 clause 15 reads as under:-

> ''15. जहां पति–पत्नी दोनों ही अध्यापक हो, वहां दोनों को यथासम्भव एक ही क्षेत्र में रखा जाएगा। यदि दोनों के मामले में अति दुर्गम क्षेत्र/दुर्गम क्षेत्र में सेवा अवधि (ठहराव) की पूर्णता हो, तो सगान क्षेत्र/उच्च क्षेत्र से स्थानान्तरित कर एक क्षेत्र में रखा जाएगा अन्यथा उच्च क्षेत्र से निम्न क्षेत्र (दुर्गम, अति दुर्गम) को स्थानान्तरित कर एक क्षेत्र में रखा जाएगा।''

The record shows that the petitioner has already made a representation before the respondent No. 2 i.e. Upper Sachive, Uttaranchal Shasan, Dehradun on 24.05.2005 which has been filed as annexure 4 to the petition and that representation is yet to be decided.

It has also been submitted by the learned counsel for the petitioner that certain posts in the nearby schools are lying vacant but the petitioner has not been posted in those schools and instead of has been posted in a

remote area. In this connection, the petitioner has already submitted his representation before the respondent No. 2 wherein he has mentioned that as many as six schools in which the posts are lying vacant and the transfer can be made in those schools.

Accordingly, the respondent No. 2 is directed to decide the representation of the petitioner dated 24.05.2005 provided the petitioner shall file the certified copy of the judgment passed by this Court within a period of 15 days and the respondent No. 2 shall thereafter decide the representation of the petitioner in the light of the Government Order which has been quoted in the body of the judgment within a period of 15 days by passing the speaking and reasoned order.

With the aforesaid observations, the writ petition is finally disposed of.

(B.C. Kandpal, J.)

15.07.2005
ASWAL